



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,951	01/04/2001	Marvin L. Vestal	SYP-060REC N	4499

959 7590 02/10/2005

LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON, MA 02109

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/755,951	Applicant(s) VESTAL, MARVIN L.	
	Examiner Arlen Soderquist	Art Unit 1743	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 10 January 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37 within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.



ARLEN SODERQUIST
PRIMARY EXAMINER

Continuation of 10. Other (including any explanation in support of the above items): Relative to items 1 and 5 above the status of the claims heading includes a listing of the rejections the examiner has applied in addition to the required statement. These are the grounds of rejection that are to be reviewed on appeal, however, they are not found in the appropriate heading of the Appeal Brief. Instead a listing of rejections that appears to correspond to or to be an attempt by appellant to use the prior grouping of claims heading/section that is no longer appropriate under the current rules and format for an appeal brief. The grounds of rejection that are to be reviewed on Appeal heading is for the rejections of the examiner in the final office action that applicant wishes to be reviewed, not a set of rejections for a grouping of claims. The distinction between claims occurs in the arguments section of the Appeal Brief. Relative to item 4 above the description does not reference the drawings by reference characters. Additionally, at least for claims 95 and 97, the Brief does not properly explain the means plus function aspect of those claims. If applicant intends to argue a dependent claims separately, 93, then the explanation of that claim should also be present. Relative to item 6 above the argument section of the Brief fails to use the proper heading format: the grounds of rejection on appeal as headings with subheadings for different claims argued separately .